REMARKS

Claims 1-17 are pending in the application. Reconsideration is respectfully requested.

Rejection under 35 USC 103

The claims stand rejected under 35 USC 1O3(a) over W0'502 in combination with JP1-52379. This rejection is respectfully traversed.

As to the applicability of the primary reference, the Examiner has notably agreed that **"WO '502 does not expressly teach that the centrifugal atomization process is carried out in an atmosphere with a relatively low (i.e., <4vol%) oxygen content...."** (page 3 second para of the Office action). To cure this deficiency of the primary reference (WO '502), the Examiner then relies upon secondary reference, JP '379, asserting (contrary to what JP '379 discloses, *vide infra*) that JP '379 uses *centrifugal* atomization under low oxygen concentration. Hence, the Examiner surmises that the invention as a whole would have been obvious to one of ordinary skill in the art because the disclosure of JP '379 would motivate the artisan to conduct the centrifugal atomization of WO '502 in an atmosphere containing less than 4 vol% oxygen. These assertions of the Examiner are respectfully traversed.

It is well settled that merely because the references can be combined does not render the resultant combination obvious unless the prior art also suggest the desirability of the combination. *ACS Hospital Systems, Inc. v. Montefiore Hospital* (CAFC 1984) USPQ 929. Furthermore, both the suggestion to make the claimed composition or carry out the claimed process and the reasonable expectation of success must be founded in the prior art, not in applicant's disclosure. *In re Vaeck* (CAFC 1991) 20 PQ2d 1438. Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching, suggestion or incentive supporting the combination. *In re Geiger* (CAFC 1987) 2

PQ2d 1276; *In re Fine* (CAFC 1988) 5 PQ2d 1596. In order for a combination of references to render an invention obvious, it must be obvious that their teachings can be combined. *In re Avery* (CCPA 1975) 186 USPQ 161.

As indicated herein before, the Examiner agrees that the primary reference "WO '502 does not expressly teach that the centrifugal atomization process is carried out in an atmosphere with a relatively low (i.e., <4vol%) oxygen content...," (page 3 second para of the Office action). If this deficiency of the primary reference has to be cured, the secondary reference must, at the very least, relate in some manner to **centrifugal** atomization before it can be combined with the primary reference, if the well-settled holdings of the Courts have any validity.

When examined in this light, it is found that the secondary reference (JP'379) filed in 1987 (see translation supplied by the Examiner) relates to **gas** atomization, and has nothing to do with **centrifugal** atomization. It is also important to note in this respect that centrifugal atomization for alkaline powders was only developed **after 1990**; and secondly, the translation of JP'379 at p. 6, last line, specifies that the Zn alloys was made into powder by using a high-pressure **argon gas**, with a spouting pressure of 5 kg/cm^3, which clearly corresponds to a **gas atomisation** process, and not to **centrifugal** atomization. Also on p. 7, 4th para, a "spraying chamber" is mentioned, which again is indicative of a gas atomization process. Clearly, therefore, this secondary reference (JP'379) dealing with an entirely different process (gas atomization) than that of the present invention (centrifugal atomization) has no relevance to the claimed process of the instant application and, therefore, cannot provide any incentive or motivation to one of ordinary skill in the art to look into this reference, nor can it be combined with the primary reference to cure its vital deficiency. It is equally important here to set forth Examiner's own concurrence that "...**any alloys made by a process other than centrifugal atomization are not germane to the outstanding rejection."** (page 4, lines-8-9 of the Office action).

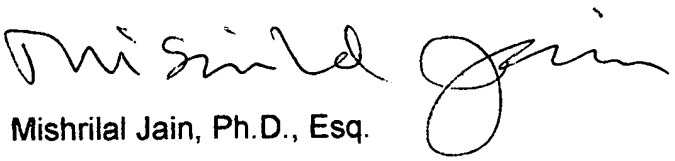
In light of the above, the outstanding rejection under 35 USC 1O3(a) over W0'502 in combination with JP1-52379 is inapplicable and unsustainable, and this rejection should be withdrawn.

The claims are now believed to be in condition for allowance and favorable action accordingly is earnestly solicited.

Should there remain any outstanding issues, a telephone interview with the Examiner to discuss the same toward furthering the application for allowance is respectfully requested.

Authorization for payment of the extension of time fees from the Deposit Account is enclosed herewith.

Respectfully submitted,



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